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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,924	02/18/2004	Robert B. Franks	5897-000022/CO	9713
27572	7590	03/27/2008	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			GARG, YOGESH C	
ART UNIT		PAPER NUMBER		
3625				
MAIL DATE		DELIVERY MODE		
03/27/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/781,924	FRANKS, ROBERT B.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Yogesh C. Garg	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 26 December 2007.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-30 is/are pending in the application.

4a) Of the above claim(s) 1-17 and 21-30 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 18-20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Response to Amendment***

1. Applicant's amendment filed 12/26/2007 is entered. Claims 18-20 are pending. Claims 18 and 19 are amended. Claims 1-17 and 21-30 are withdrawn.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 18-19 have been considered but are moot in view of the new ground(s) of rejection necessitated due to current amendments.

**Priority:** The applicant's arguments (see Remarks, page 12) filed on 12/26/2007 regarding priority claim are not on because the instant application does not claim to be filed as a National Stage application of PCT/GB/2002/003858 under 371 (c) but instead it recites that this is a continuation of a foreign application. Since the foreign filed application was filed more than 12 months earlier than the date of US application the claim for priority is denied.

- 3 Examiner cites particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other relevant and related passages and figures

may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the other relevant and related passages and figures in the cited references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 18 recites the limitation "the set" in lines 5-6 of this claim. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the USPTO Web server in use (see the Reference numbers 2,3 and 4 in the IDS sheet 1 of PTO-1449 received from the applicant on 7/12/2004. All these Reference numbers represent web pages of the USPTO web server facilitating to register and file patent and trademark applications. While rejecting the claims, individual Reference numbers will be cited to reject the claims), hereinafter TEAS in view of Roberts et al. (US 20070202800), hereinafter Roberts.

Note: Claims 18-20 are system claims. Claims directed to an Apparatus/system must be distinguished from the prior art in terms of structure rather than function, *In re Danly* 263 F.2d 844, 847, 120 USPQ 582, 531 (CCPA 1959). A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1657 (bd Pat. App. & Inter. 1987). In the instant case, the system claims 18-20 recite comprising transaction and user computer entities having operating interfaces and browsers respectively . Thus if the prior art teaches all the structural limitations of claims 18-20 and are capable of doing the intended functions then the prior art will read on the instant claims.

Regarding claim 18, TEAS (see Reference number 4 of IDS received on 7/12/2004) discloses a transaction system for collecting data describing a trade mark, said transaction system comprising:

a transaction computer entity, said transaction computer entity operating an interface, said interface capable of accepting a data file representing a trade mark And at least one user computer entity, said user computer entity comprising a browser, and a file system; wherein said interface allows said browser to: browse said file system of said user computer entity; select a data file stored on a data storage device of said user computer entity; and said interface inputs said selected data file to said transaction computer entity (see pages 1-3. TEAS filing system provides an interface to a user having a computer entity equipped with a browser to select form files from a file system and populate those files with data, such as text and images (for trademarks) and accept the populated files for registration).

TEAS does not disclose that the data file transmitted by the user from his computer and accepted by the transaction computer interface includes also at least one file selected from a set of a video file and audio file along with the text file and image file. However, Roberts teaches transmitting and accepting data files [via a communication network] comprising text, audio and video files and storing them on a computer entity and processing them in the field of Trademark (see at least paragraphs 0002, “*the present invention relates to an EDS Card for receiving, storing, and transmitting files including video, audio, text, and multimedia files, especially files received via satellite transmission.....*”, 0004, “*One such system is the direct to home ("DTH") satellite delivery system such as that offered in connection with the trademark, "DirecPC." In these DTH types of systems, each subscriber or user of the system must have: (i) access to a satellite dish; (ii) a satellite receiver connected to the satellite dish and mounted in the user's PC; and (iii) an Internet back channel in order to request information from Internet Web sites.*”, and 0013 “*The present invention provides an Ethernet Digital Storage*

*(EDS) Card operable in a satellite data transmission system for storing and routing any kind of data including audio, video, text, image or multimedia files. Use of the present invention provides a satellite data transmission system with the ability to receive a multiplexed data stream of a variety of files, such as audio, video, data, images, and other multimedia files. Received files may be demultiplexed and stored automatically on the EDS Card locally in a flash memory storage. Files stored in the flash memory storage may be retrieved later. ...."....).* In view of Roberts, it would be obvious to one of an ordinary skilled in the art to combine the known teachings of Roberts with TEAS, at the time of applicant's invention, because doing so would help a Trademark applicant to transmit video and audio files along with text and image files. What matters is the objective reach of the claim. If the claim extends to what is obvious, it is invalid under § 103." KSR, id. at 1741-42. Section 103 forbids issuance of a patent when 'the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.'" KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727, 1734 (2007). It would amount to combining elements separately disclosed in TEAS and Roberts that is the TEAS interface receiving application data files including text and image and along with these files also receiving the audio and video files from the applicant as described in Roberts.

Regarding claim 19, its limitations are closely parallel to the limitations of claim 18 as regards to transmitting and accepting data files comprising text files, audio files, image files and video files and are therefore analyzed and rejected on the basis of same rationale set forth for claim 18 above. As regards the limitation for creating a

trade mark data file representing said trade mark data comprising all the files received, it is already taught by TEAS (see reference 4 of the said IDS) and in view of Roberts, as analyzed above for claim 18 the data files received would include text files, image files, audio files and video files [as need by the applicant and provided by him] and will be processed.

Regarding claim 20, reference 4 teaches that the transaction system as claimed in claim 19, wherein said interface is capable of serving a view containing an image selected from the set: a JPEG or a PDF image (see page 2 which teaches accepting JPG files).

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Chase (US 20020177914 A1, see at least paragraph 0087) teaches transmitting and receiving text files, audio files, video files , " ***The audio server 180 may include an incoming data processing module 181 which processes data files (e.g., audio files, cart files, play list files, video files, text files) received from the data buffer 130 (FIG. 7). The incoming data processing module 181 stores these files on the memory 48. ".***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C. Garg whose telephone number is 571-272-6756. The examiner can normally be reached on Increased Flex/Hoteling.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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